IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 18687 of 2000

Between:

1. A.Basi Reddy, s/0 Ranga Reddy, aged 50 years, Occ: business,

r/o Gadwal, Mahaboobnagar district.

2. Chandrasekhar Reddy, s/o Pulla Reddy, aged 50 years,

Occ: business, r/o Gadwal, Mahaboobnagar district.

..... PETITIONERS

AND

1. The Prohibition and Excise Superintendent,

Mahaboobnagar District.

2. The Prohibition Excise Inspector, Station House Officer,

Gadwal, Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of Mandamus or any other appropriate writ order or orders directing the respondents to quash the same as illegal as without jurisdiction passedl under Section 8 of the Revenue Recovery Act, dated 04.11.1999.

Counsel for the Petitioners: MR.S.VENKATESWARA REDDY

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following:

ORDER:

The petitioners herein who were Excise licence holders and who were running a wine shop, filed this Writ Petition *inter alia* challenging the action of the respondents herein in taking proceedings under the

provisions of the A.P. Revenue Recovery Act, by issuing notice under Section 8, thereof on 04-11-1999.

2. The case of the petitioners is that they were granted licence and were running a wine shop, however, due to some troubles, they had closed down the shop and the same was done on an application filed by themselves and also under the panchanama conducted by the respondents themselves; therefore they are fully aware of the closure of the shop on 01-01-1995 and thereafter, no business was conducted to the knowledge of the respondents themselves. In spite of the same, the respondents have straight away taken recourse of recovery under the provisions of the A.P. Revenue Recovery Act, which is totally illegal.

3. In the counter affidavit filed on behalf of the respondents, it is submitted that as per the contract, the petitioners have to pay entire amount, which cannot be given any waiver and as such petitioners are not entitled

to any benefit by mere closure.

4. Having considered the submissions made and also on perusal of the material on record, it is seen that it is only due to some local troubles, the petitioners have closed down the shop and it is to the knowledge of the respondents the panchanama was conducted.

However, the respondents have straight away issued notice under Section 8 of the Act, for recovery, without giving any notice or opportunity to the petitioners.

5. In the circumstances, it is suffice in the interest of justice to direct the petitioners herein to file a comprehensive representation pointing out all the circumstances leading to the closure of the business and also seeking any benefit thereby, either for waiver or otherwise which can be considered on merits and also in proper perspective and dispose of in accordance with law after giving notice to the petitioners.

6. The Writ Petition is accordingly disposed of. The petitioners shall file a fresh representation within a period of four weeks from today, and the same shall be disposed of by the respondents within a period of two months thereafter. It is needless to mention that till the disposal of the said representation, respondents shall not take recourse to the recovery.

Sd/-P.EKAMBARAM

ASST.REGISTRAR

//True Copy//

Section Officer

To

1. The Prohibition and Excise Superintendent,

Mahaboobnagar District.

2. The Prohibition Excise Inspector, Station House Officer,

Gadwal, Mahaboobnagar District.

3. Two CCs to the Government Pleader for Prohibition & Excise, High

Court Buildings, Hyderabad (OUT).

4. Two CD copies.

5. One cc to Mr.S.Venkateshwar Reddy, Advocate (OPUC)

TRk

HIGH COURT

DATED:

4.8.2004

ORDER:

WP.NO. 18687 OF 2000

DISPOSING THE

WRIT PETITION